

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/B2004/001107

International filing date (day/month/year)
12.04.2004

Priority date (day/month/year)
16.04.2003

International Patent Classification (IPC) or both national classification and IPC
G01N21/17, G01N21/63, G01N29/24, G01B11/06

Applicant
KONINKLIJKE PHILIPS ELECTRONICS N.V.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/IB2004/001107

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2004/001107

Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-13
	No: Claims	1
Inventive step (IS)	Yes: Claims	
	No: Claims	1-13
Industrial applicability (IA)	Yes: Claims	1-13
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/IB04/01107

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. The following documents (D) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: US-A-4 666 308 (WILLIAMS CLAYTON C) 19 May 1987 (1987-05-19)

D2: US-A-5 812 261 (ROGERS JOHN A ET AL) 22 September 1998 (1998-09-22) cited in the application

D3: US-A-5 633 711 (DUGGAL ANIL R ET AL) 27 May 1997 (1997-05-27) cited in the application

D4: US-A-4 683 750 (STEARNS RICHARD G ET AL) 4 August 1987 (1987-08-04)

D5: WO 01/35881 A (JEAN BENEDIKT ;BENDE THOMAS (DE)) 25 May 2001 (2001-05-25)

2. In D1 (see e.g. col.1, l.9 to col.2, l.64; col.7, ll.24-59; Figs.1, 3) a method is described comprising all steps corresponding to Claim 1.

It should be noted that "detecting the signal beam as a function of time" is at least implicitly disclosed in D1.

Thus, Claim 1 lacks novelty.

3. In Claims 2-13 only slight changes in the method of Claim 1 are defined which come within the scope of the customary practice followed by persons skilled in the art (see also the documents cited in the Search Report), especially as the advantages thus achieved can readily be foreseen.

Consequently, these dependent claims do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/IB04/01107

4. If, in spite of the above-mentioned objections, the applicant wishes to proceed further, the following additional points should be noted, i.e. the corresponding amendments provided:
 - 4.1 Also documents D1, D4 and D5 should be mentioned and their contents briefly commented on in the introductory part of the description.
 - 4.2 The introductory part of the description should contain statements agreeing with any independent claim submitted.
 - 4.3 Any new independent claim should be submitted in the two-part form set out in Rule 6.3 (b) PCT.
 - 4.4 In the new set of claims reference signs should be inserted in brackets following those features which are so numbered in the figures (Rule 6.2 (b) PCT).
 - 4.5 If new features are taken into the claims, Article 19 (2) of the PCT should not be infringed and it would probably accelerate the examining process if it were indicated from which part of the application any such features are taken.